

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
CONSUMERS ENERGY COMPANY for certain)
ratemaking approvals in connection with the)
MCV power purchase agreement auction process.)
_____)

Case No. U-11941

At the August 17, 2000 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

On April 30, 1999, the Commission issued an order conditionally granting in part a request by Consumers Energy Company (Consumers) for approval of accounting and ratemaking treatment related to a power sale agreement that Consumers signed with PECO Energy Company (PECO). The agreement calls for Consumers to resell to PECO capacity and energy that it purchases from the Midland Cogeneration Venture Limited Partnership (MCV). After several parties filed petitions for rehearing, the Commission issued an order on August 31, 1999, which made further modifications and clarifications and imposed further conditions. On September 30, 1999, Consumers filed a petition for rehearing and clarification of the August 31, 1999 order. Energy Michigan and The Michigan Petroleum Association/Michigan Association of Convenience Stores filed answers.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACRS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

In its petition, Consumers raises three matters. First, Consumers asks the Commission to determine and fix the amount of the separate charge that Consumers will implement to recover MCV-related costs from January 1, 2002 through September 15, 2007. Second, Consumers seeks to eliminate a separate true-up calculation of MCV-related capacity costs. Third, Consumers requests confirmation that the petition it filed on September 30, 1999 to rescind the June 12, 1992 order in Case No. U-9586 and approve an alternative process for acquiring capacity meets the condition imposed in the August 31, 1999 order for Consumers either to commence a capacity solicitation in accordance with Case No. U-9568 or file an application proposing a revised capacity solicitation process.

The first two requests for relief have already been addressed in prior orders and do not meet the standard for rehearing in Rule 403. Beyond that, they have been overtaken by the rate freeze and other provisions recently enacted in 2000 PA 141. The third issue was fully addressed in the April 11, 2000 order in Cases Nos. U-12148 and U-12177. The Commission expects Consumers to continue to comply with that order.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

b. The petition for rehearing and clarification should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing and clarification is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ John G. Strand
Chairman

By its action of August 17, 2000.

/s/ David A. Svanda
Commissioner

/s/ Dorothy Wideman
Its Executive Secretary

/s/ Robert B. Nelson
Commissioner

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.

b. The petition for rehearing and clarification should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing and clarification is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

By its action of August 17, 2000.

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Suggested Minute:

“Adopt and issue order dated August 17, 2000 denying the petition for rehearing and clarification filed by Consumers Energy Company, as set forth in the order.”